

NEWSFRONT

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LEGAL OPINION

Piercing of the corporate veil

In a case concerning pollution, the issue arose as to whether the principal behind the group of companies involved was using them as front-legal persons in order to cover his personal activity. His behavior was examined to confirm whether he was indeed abusing the legal entities which were incorporated to circumvent the law and avoid satisfying his creditors.

The following facts were considered: The fact the individual was the sole shareholder, BoD President and legal representative of the company involved, duly established in Greece; the statement in a lawsuit of the group companies that they are within the course of business of the individual's family; the sworn statement of an employee of the individual that he was exercising the entire entrepreneurial activity; the fact BoD members of the managing company were not essentially involved in the business and were just signing BoD minutes prepared by the individual without reading them; the fact the individual was recorded as manager of the vessel involved; ownership by a company of the group of several real estate property without funds justifying acquisition, and the registration of pre-notation of mortgage against the property in favour of another group company, leading to jeopardising creditors chances to satisfy their claims; the mixing of the individual's personal funds with those of the companies involved, eg when paying crew wages from personal accounts; the lack of expert personnel in the managing company, ie the absence of proper operation of the company.

After considering these facts, the Court found there was abuse of the applicable provisions aiming to create a corporate protection to the individual, and pierced the corporate veil, considering the acts of the companies as acts of the principal.

Supreme Court Judgment no 537/2016, Presiding: D. Papantonopoulou, Rapporteur Judge: G. Kontos, Attorneys at law: G. Timagenis, P. Chiotelis, I. Chaliakopoulos, Maritime Law Review vol. 45, p. 19.

NOTE: Above tests were judged in conjunction. The mere concentration of the capacities of shareholder, director and legal representative to one person do not necessarily suggest abuse. Nor is alone the incorporation of legal entity which would limit the entrepreneurial risks of the principal, the granting of guarantees by the principal etc. However, lack of funding is an indication of abuse.

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